

**ASSEMBLY BILL**

**No. 2519**

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**Introduced by Assembly Member Bill Berryhill**

February 24, 2012

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An act to amend Sections 11315, 11340, 11343, 11345.3, 11345.45, 11345.6, 11400, 11404, 11405, and 11408 of, and to add Section 11315.3 to, the Business and Professions Code, relating to real estate appraisers.

LEGISLATIVE COUNSEL'S DIGEST

AB 2519, as introduced, Bill Berryhill. Real estate appraisers: licensing.

Existing law, the Real Estate Appraisers' Licensing and Certification Law, provides for the licensure and regulation of real estate appraisers and vests the duty of enforcing and administering that law in the Office of Real Estate Appraisers. Existing law authorizes the Director of the Office of Real Estate Appraisers to adopt regulations governing the process and procedure of licensing real estate appraisers, as specified.

(1) Existing law authorizes the Director of the Office of Real Estate Appraisers to issue to a licensee, or course provider, as specified, a citation that may impose the requirement to complete an education course or courses by the licensee, under specified conditions. Existing law provides for the automatic suspension of a real estate appraiser's license if the licensee fails to satisfactorily or timely complete an education course as imposed by the citation.

This bill would prohibit the renewal of a license if the licensee fails to satisfactorily complete the additional education requirements imposed by the citation, as specified.

(2) Existing law authorizes the office to publish a summary of public disciplinary actions taken by the office against licensees and registrants, including resignations while under investigation.

This bill would authorize the office to institute or continue disciplinary proceedings against a licensee or registrant, or to suspend or revoke a license or certificate of registration, notwithstanding the expiration, or suspension, cancellation, or forfeiture by operation of law, or by an order of the office or a court of law, of the license or certificate of registration, as specified.

(3) Existing law provides that a holder of a valid real estate broker license shall be deemed to have completed the experience requirements for licensure, upon certain conditions.

This bill would delete this provision.

(4) Existing law requires fingerprinting and background checks, as specified, by the Department of Justice of applicants for real estate appraiser licenses and each controlling person of an applicant for registration as an appraisal management company.

This bill would require the applicants for real estate appraiser licenses and each controlling person of each applicant for registration as an appraisal management company to submit to the Department of Justice fingerprinting images and information via LiveScan. The bill would also require that applicants located out of state submit fingerprint cards with their application package, for submission by the office to the department.

(5) Existing law sets forth standards with which an appraisal management company needs to comply regarding independent contractor appraisers, including standards relating to licensure, performance of appraisal services, and appraisal reports.

This bill would, in addition, make these requirements applicable to employee appraisers, as specified.

(6) Existing law prohibits a registered appraisal management company from requiring an appraiser to provide it with the appraiser's digital signature or seal. Existing law, however, allows an appraiser to provide his or her digital signature or seal to another person voluntarily.

This bill would allow an appraiser to provide his or her digital signature or seal to another person only to the extent permissible under the Uniform Standards of Professional Appraiser Practice.

(7) Existing law requires the department to charge licensing and issuance-related fees to each applicant, and requires that these fees be paid to the office at the time of filing the application. Existing law also

provides that fees may be paid, among other means, by government purchase order.

This bill would remove the requirement that issuance-related fees be paid at the time of filing that application. The bill would also delete the provision allowing payment of these fees by government purchase order.

(8) Existing law requires that applications for a license be submitted to the office within one year of the successful completion of the required examination.

This bill would instead specify that an applicant is not eligible to have a license issued unless he or she notifies the office within one year of successful completion of the required examination.

(9) This bill would also delete an obsolete reference and make other conforming changes.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 11315 of the Business and Professions  
2 Code is amended to read:

3 11315. (a) The director may issue to a licensee, applicant for  
4 licensure, person who acts in a capacity that requires a license  
5 under this part, course provider, applicant for course provider  
6 accreditation, or a person who, or entity that, acts in a capacity  
7 that requires course provider accreditation, a citation that may  
8 contain an order to pay an administrative fine assessed by the office  
9 if the person or entity is in violation of this part or any regulations  
10 adopted to carry out its purposes.

11 (b) A citation shall be written and describe with particularity  
12 the nature of the violation, including a specific reference to the  
13 provision of law determined to have been violated.

14 (c) If appropriate, the citation may contain an order of abatement  
15 fixing a reasonable time for abatement of the violation.

16 (d) (1) If appropriate, the citation may contain an order to enroll  
17 in and successfully complete additional basic or continuing  
18 education courses.

19 (2) When a citation imposes an education course or courses, the  
20 completion of the course or courses by the licensee shall be subject  
21 to the following conditions:

1 (A) The citation imposing the education requirement may  
2 specify the specific course content, the number of hours to be  
3 completed, the date by which the course is to be completed, and  
4 the method by which satisfaction of the order is to be reported to  
5 the office.

6 (B) An education course imposed by citation may not be credited  
7 towards the licensee's continuing education requirements pursuant  
8 to Section 11360.

9 (C) Only courses accredited by the office shall be accepted for  
10 purposes of fulfilling education imposed by citation.

11 (D) Any failure to satisfactorily complete or timely report an  
12 education course to the office by the date specified in the citation  
13 shall result in the automatic suspension of the licensee's real estate  
14 appraiser license as of that date. *A license shall not be renewed*  
15 *prior to the satisfactory completion of an education course*  
16 *specified in the citation, unless the citation provides for a*  
17 *completion date that is subsequent to the license renewal date.*

18 (E) Reinstatement of a license suspended pursuant to  
19 subparagraph (D) shall be made only if all of the following events  
20 occur:

21 (i) Satisfactory verification of the completion of the education  
22 course or courses imposed by the citation.

23 (ii) Completion and filing of a reinstatement application.

24 (iii) Payment of all applicable fees, fines, or penalties.

25 (e) In no event shall an administrative fine assessed by the office  
26 by citation or order exceed ten thousand dollars (\$10,000) per  
27 violation. In assessing a fine, the office shall give due consideration  
28 to the appropriateness of the amount of the fine with respect to  
29 factors such as the gravity of the violation, the good faith of the  
30 person who committed the violation, and the history of previous  
31 violations.

32 (f) A citation or fine assessment issued pursuant to a citation  
33 shall inform the person cited that, if he or she desires a hearing to  
34 contest the finding of a violation, he or she must request a hearing  
35 by written notice to the office within 30 days of the date of issuance  
36 of the citation or assessment. Hearings shall be held pursuant to  
37 Chapter 5 (commencing with Section 11500) of Part 1 of Division  
38 3 of Title 2 of the Government Code. The citation or fine  
39 assessment shall also inform the person cited that failure to respond  
40 to the citation or fine assessment shall result in any order or

1 administrative fine imposed becoming final, and that any order or  
2 administrative fine shall constitute an enforceable civil judgment  
3 in addition to any other penalty or remedy available pursuant to  
4 law.

5 (g) (1) If a licensee, applicant for licensure, person who acts  
6 in a capacity that requires a license under this part, course provider,  
7 applicant for course provider accreditation, or a person who, or  
8 entity that, acts in a capacity that requires course provider  
9 accreditation fails to pay a fine, penalty, or required installment  
10 payment on the fine or penalty by the date when it is due, the  
11 director shall charge him or her interest and a penalty of 10 percent  
12 of the fine or installment payment amount. Interest shall be charged  
13 at the pooled money investment rate.

14 (2) Failure of a licensee, applicant for licensure, person who  
15 acts in a capacity that requires a license under this part, course  
16 provider, applicant for course provider accreditation, or a person  
17 who, or entity that, acts in a capacity that requires course provider  
18 accreditation to pay a fine or required installment payment on the  
19 fine within 30 days of the date ordered in the citation, unless the  
20 citation is being appealed, shall be cause for additional disciplinary  
21 action by the office.

22 (3) If a citation is not contested and a fine or fine payment is  
23 not paid within 30 days of the date ordered in the citation or other  
24 order of the director, the full amount of the unpaid balance of the  
25 assessed fine shall be added to any fee for renewal of a license. A  
26 license shall not be renewed prior to payment of the renewal fee  
27 and fine.

28 (4) The director may order the full amount of any fine to be  
29 immediately due and payable if any payment due on a fine is not  
30 received by the office within 30 days of its due date.

31 (5) Any fine, or interest thereon, not paid within 30 days of a  
32 final citation or order shall constitute a valid and enforceable civil  
33 judgment.

34 (6) A certified copy of the final order, or the citation with  
35 certification by the office that no request for hearing was received  
36 within 30 days of the date of issuance of the citation, shall be  
37 conclusive proof of the civil judgment, its terms, and its validity.

38 (h) A citation may be issued without the assessment of an  
39 administrative fine.

1 (i) Any administrative fine or penalty imposed pursuant to this  
2 section shall be in addition to any other criminal or civil penalty  
3 provided for by law.

4 (j) Administrative fines collected pursuant to this section shall  
5 be deposited in the Real Estate Appraisers Regulation Fund.

6 SEC. 2. Section 11315.3 is added to the Business and  
7 Professions Code, to read:

8 11315.3. The suspension, expiration, or forfeiture by operation  
9 of law of a license or certificate of registration issued by the office,  
10 or its suspension, forfeiture, or cancellation by order of the office  
11 or by order of a court of law, or its surrender without the written  
12 consent of the office, shall not, during any period in which it may  
13 be renewed, restored, reissued, or reinstated, deprive the office of  
14 its authority to institute or continue a disciplinary proceeding  
15 against the licensee or registrant upon any ground provided by law  
16 or to enter an order suspending or revoking the license or certificate  
17 of registration, or otherwise taking disciplinary action against the  
18 licensee or registrant on any such ground.

19 SEC. 3. Section 11340 of the Business and Professions Code  
20 is amended to read:

21 11340. The director shall adopt regulations governing the  
22 process and the procedure of applying for a license which shall  
23 include, but not be limited to, necessary experience or education,  
24 equivalency, and minimum requirements of the Appraisal  
25 Foundation, if any.

26 (a) For purposes of the educational background requirements  
27 established under this section, the director shall grant credits for  
28 any courses taken on real estate appraisal ethics or practices  
29 pursuant to Section 10153.2, or which are deemed by the director  
30 to meet standards established pursuant to this part and federal law.

31 (b) For the purpose of implementing and applying this section,  
32 the director shall prescribe by regulation “equivalent courses” and  
33 “equivalent experience.” The experience of employees of an  
34 assessor’s office or of the State Board of Equalization in setting  
35 forth opinions of value of real property for tax purposes shall be  
36 deemed equivalent to experience in federally related real estate  
37 appraisal activity. ~~Notwithstanding any other law, a holder of a~~  
38 ~~valid real estate broker license shall be deemed to have completed~~  
39 ~~appraisal license application experience requirements upon proof~~

1 ~~that he or she has accumulated 1,000 hours of experience in the~~  
2 ~~valuation of real property.~~

3 (c) The director shall adopt regulations for licensure which shall  
4 meet, at a minimum, the requirements and standards established  
5 by the Appraisal Foundation, ~~the Resolution Trust Corporation,~~  
6 and the federal financial institutions regulatory agencies acting  
7 pursuant to Section 1112 of the Financial Institutions Reform  
8 Recovery and Enforcement Act of 1989, Public Law 101-73  
9 (FIRREA). The director shall, by regulation, require the application  
10 for a real estate appraiser license to include the applicant's social  
11 security number.

12 (d) In evaluating the experience of any applicant for a license,  
13 regardless of the number of hours required of that applicant, the  
14 director shall apply the same standards to the experience of all  
15 applicants.

16 (e) No license shall be issued to an applicant who is less than  
17 18 years of age.

18 SEC. 4. Section 11343 of the Business and Professions Code  
19 is amended to read:

20 11343. (a) ~~The office—Each real estate appraiser license~~  
21 ~~applicant and each controlling person of each applicant for~~  
22 ~~registration as an appraisal management company shall submit~~  
23 ~~to the Department of Justice fingerprint images and related~~  
24 ~~information required by the Department of Justice of all real estate~~  
25 ~~appraiser license applicants and each controlling person of each~~  
26 ~~applicant for registration as an appraisal management company,~~  
27 ~~via LiveScan for the purposes of obtaining allowing the office to~~  
28 ~~obtain~~ information as to the existence and content of a record of  
29 state or federal convictions and state or federal arrests and also  
30 information as to the existence and content of a record of state or  
31 federal arrests for which the Department of Justice establishes that  
32 the person is free on bail or on his or her own recognizance pending  
33 trial or appeal. *If the applicant is located out of state, then the*  
34 *applicant shall include his or her fingerprint card with the*  
35 *application package and the office shall submit the fingerprint*  
36 *cards to the Department of Justice for the purposes of this*  
37 *subdivision.*

38 (b) When received, the Department of Justice shall forward to  
39 the Federal Bureau of Investigation requests for federal summary  
40 criminal history information received pursuant to this section. The

1 Department of Justice shall review the information returned from  
2 the Federal Bureau of Investigation and compile and disseminate  
3 a response to the office.

4 (c) The Department of Justice shall provide a response to the  
5 office pursuant to paragraph (1) of subdivision (p) of Section 11105  
6 of the Penal Code.

7 (d) The office shall request from the Department of Justice  
8 subsequent arrest notification service, as provided pursuant to  
9 Section 11105.2 of the Penal Code, for persons described in  
10 subdivision (a).

11 (e) The Department of Justice shall charge a fee sufficient to  
12 cover the cost of processing the request described in this section.

13 SEC. 5. Section 11345.3 of the Business and Professions Code  
14 is amended to read:

15 11345.3. The director may not issue a certificate of registration  
16 to an appraisal management company unless the appraisal  
17 management company confirms in its application for registration  
18 that all of its contracts with clients include provision of each of  
19 the following as standard business practices, as and where  
20 applicable:

21 (a) Ensuring that *employee appraisers and* independent  
22 contractor appraisers contracted by the applicant possess all  
23 required licenses and certificates from the office.

24 (b) Reviewing the work of all *employee appraisers and*  
25 independent contractor appraisers contracted by the applicant to  
26 ensure that appraisal services are performed in accordance with  
27 the Uniform Standards of Professional Appraisal Practice.

28 (c) Maintaining records of each of the following for each service  
29 request:

30 (1) Date of receipt of the request.

31 (2) Name of the person from whom the request was received.

32 (3) Name of the client for whom the request was made, if  
33 different from the name of the person from whom the request was  
34 received.

35 (4) The appraiser or appraisers assigned to perform the  
36 ~~contracted~~ requested service.

37 (5) Date of delivery of the appraisal product to the client.

38 SEC. 6. Section 11345.45 of the Business and Professions  
39 Code is amended to read:



1 11345.45. A person or entity may not structure an appraisal  
2 assignment *for*, or a contract with, *an employee appraiser or an*  
3 independent *contractor* appraiser for the purpose of evading the  
4 provisions of this part relating to appraisal management companies.

5 SEC. 7. Section 11345.6 of the Business and Professions Code  
6 is amended to read:

7 11345.6. (a) No registered appraisal management company  
8 may alter, modify, or otherwise change a completed appraisal  
9 report submitted by *an employee appraiser or an independent*  
10 *contractor* appraiser, including, without limitation, by doing either  
11 of the following:

12 (1) Permanently removing the appraiser's signature or seal.

13 (2) Adding information to, or removing information from, the  
14 appraisal report with an intent to change the value conclusion.

15 (b) No registered appraisal management company may require  
16 an *employee or independent contractor* appraiser to provide it with  
17 the appraiser's digital signature or seal. However, nothing in this  
18 subdivision shall be deemed to prohibit an appraiser from  
19 voluntarily providing his or her digital signature or seal to another  
20 person, *to the extent permissible under the Uniform Standards of*  
21 *Professional Appraiser Practice*.

22 SEC. 8. Section 11400 of the Business and Professions Code  
23 is amended to read:

24 11400. (a) Initial application fees shall be paid to the office  
25 at the time of application.

26 ~~(b) All issuance-related fees shall be paid to the office at the~~  
27 ~~time the issuance application is submitted to the office.~~

28 ~~(c)~~

29 (b) All fees shall be paid by cashier's check, certified check, *or*  
30 money order, ~~or government purchase order~~. In addition, the office  
31 may accept personal checks or credit cards for the payment of fees.  
32 All fees shall be deemed earned by the office upon receipt and are  
33 refundable at the discretion of the director.

34 SEC. 9. Section 11404 of the Business and Professions Code  
35 is amended to read:

36 11404. The fee for an original or renewal real estate appraiser  
37 license or appraiser trainee license shall not exceed four hundred  
38 fifty dollars (\$450), ~~which includes the application and issuance~~  
39 ~~fees~~.

1 SEC. 10. Section 11405 of the Business and Professions Code  
2 is amended to read:

3 11405. The fee for an original or renewal certification as a state  
4 certified real estate appraiser shall not exceed five hundred  
5 twenty-five dollars (\$525), ~~which includes the application and~~  
6 ~~issuance fees.~~

7 SEC. 11. Section 11408 of the Business and Professions Code  
8 is amended to read:

9 11408. (a) ~~Application for issuance of a license must be~~  
10 ~~submitted to the office within one year of the successful completion~~  
11 ~~of the examination.~~ *An applicant for licensure shall not be eligible*  
12 *to have a license issued unless he or she notifies the office within*  
13 *one year of successful completion of the examination.*

14 (b) Every applicant or licensee shall pay federal registry fees  
15 and state registry processing fees to the state as required as part  
16 of ~~issuance-related~~ *licensing* fees.